

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 400

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO MOTOR VEHICLE LICENSING; PROVIDING AN EXCEPTION TO  
NIGHT DRIVING REQUIREMENTS FOR PROVISIONAL LICENSE HOLDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-8 NMSA 1978 (being Laws 1978,  
Chapter 35, Section 230, as amended) is amended to read:

"66-5-8. PROVISIONAL LICENSES--INSTRUCTION PERMITS--  
DRIVER EDUCATION STUDENTS--TEMPORARY LICENSES. --

A. A person fifteen years and six months of age or  
older who has completed a driver education course that includes  
a DWI prevention and education program approved by the bureau  
or offered by a public school, who has had an instruction  
permit for at least six months, and who has successfully  
completed a practice driving component may apply to the  
division for a provisional license. Successful completion of a

1 practice driving component shall include not less than fifty  
2 hours of actual driving by the applicant, including not less  
3 than ten hours of night driving. An applicant for a  
4 provisional license who cannot drive at night due to low  
5 nighttime vision may be exempted from the night driving  
6 requirement of this subsection; provided that the applicant  
7 submits to the division an ophthalmologic or optometric report  
8 from a licensed optometrist who attests to the applicant's  
9 visual condition and its effect on the applicant's driving  
10 ability. The applicant's parent or guardian shall certify that  
11 the applicant has completed the practice driving component.

12 B. When operating a motor vehicle, a provisional  
13 licensee may be accompanied by not more than one passenger  
14 under the age of twenty-one who is not a member of the  
15 licensee's immediate family. A provisional license entitles  
16 the licensee, while having the license in his immediate  
17 possession, to operate a motor vehicle upon the public highways  
18 between the hours of 5:00 a.m. and midnight unless the  
19 provisional licensee is eligible for a license restricting  
20 driving to daylight hours. A provisional licensee may drive at  
21 any hour unless otherwise restricted as provided in this  
22 subsection if:

- 23 (1) accompanied by a licensed driver twenty-  
24 one years of age or older;
- 25 (2) required by family necessity as evidenced

1 by a signed statement of a parent or guardian;

2 (3) required by medical necessity as evidenced  
3 by a signed statement from medical personnel;

4 (4) driving to and from work as evidenced by a  
5 signed statement from the licensee's employer;

6 (5) driving to and from school or a religious  
7 activity as evidenced by a signed statement of a school or  
8 religious official or a parent or guardian; or

9 (6) required due to a medical emergency.

10 C. A provisional license shall not be issued to a  
11 person convicted of a traffic violation in the ninety days  
12 prior to applying for a provisional license. A provisional  
13 license shall be in such form as to be readily distinguishable  
14 from an unrestricted driver's license and shall contain an  
15 indication that the licensee may drive without supervision.

16 D. ~~Any~~ A person fifteen years of age or older who  
17 is enrolled in and attending or has completed a driver  
18 education course that includes a DWI prevention and education  
19 program approved by the bureau or offered by a public school  
20 may apply to the division for an instruction permit. The  
21 division, in its discretion after the applicant has  
22 successfully passed all parts of the examination other than the  
23 driving test, may issue to the applicant an instruction permit.  
24 This permit entitles the applicant, while having the permit in  
25 his immediate possession, to drive a motor vehicle upon the

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1 public highways for a period of six months when accompanied by  
2 a licensed driver twenty-one years of age or older who has been  
3 licensed for at least three years in this state or in another  
4 state and who is occupying a seat beside the driver except in  
5 the event the permittee is operating a motorcycle.

6 E. A person fifteen years of age or older who is a  
7 student enrolled in and attending a driver education course  
8 that is approved by the bureau or offered by a public school  
9 and that includes both a DWI education and prevention component  
10 and practice driving component may drive a motor vehicle on the  
11 highways of this state even though he has not reached the legal  
12 age to be eligible for a driver's license or a provisional  
13 license. In completing the practice driving component, a  
14 person may only operate a motor vehicle on a public highway if:

15 (1) an approved instructor is occupying a seat  
16 beside the person; or

17 (2) a licensed driver twenty-one years of age  
18 or older who has been licensed for at least three years in this  
19 state or another state is occupying a seat beside the person.

20 F. The division in its discretion may issue a  
21 temporary driver's permit to an applicant for a driver's  
22 license permitting him to operate a motor vehicle while the  
23 division is completing its investigation and determination of  
24 all facts relative to the applicant's right to receive a  
25 driver's license. The permit shall be in his immediate

1 possession while operating a motor vehicle, and it shall be  
 2 invalid when the applicant's license has been issued or for  
 3 good cause has been refused.

4 G. ~~[Any]~~ A holder of an instruction permit for a  
 5 motorcycle shall not carry any other passenger while operating  
 6 a motorcycle. "

7 Section 2. Section 66-5-19 NMSA 1978 (being Laws 1978,  
 8 Chapter 35, Section 241) is amended to read:

9 "66-5-19. RESTRICTED LICENSES. --

10 A. The division, upon issuing a driver's license,  
 11 ~~[shall have]~~ or a provisional license has authority, whenever  
 12 good cause appears, to impose restrictions, including the  
 13 shortening of the licensure period suitable to the licensee's  
 14 driving ability with respect to the type of or special  
 15 mechanical control devices required on a motor vehicle ~~[which]~~  
 16 that the licensee may operate or such other restrictions  
 17 applicable to the licensee as the division may determine to be  
 18 appropriate to assure the safe operation of a motor vehicle by  
 19 the licensee. At age seventy-five and thereafter, the  
 20 applicant shall renew ~~[his]~~ the applicant's license on a yearly  
 21 basis at no cost to the applicant.

22 B. The division may either issue a special  
 23 restricted license or may set forth such restrictions upon the  
 24 usual license form.

25 C. The division may issue a restricted license or a

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1 restricted provisional license for driving during daylight  
2 hours only to some visually handicapped persons who fail the  
3 usual eyesight test. The ~~[medical]~~ health standards advisory  
4 board created pursuant to the provisions of Section 66-5-6 NMSA  
5 1978 shall evaluate the extent of the visual handicap and its  
6 effect on the driving ability of the applicant and, based on  
7 ~~[their]~~ its recommendations, the director may issue a  
8 restricted license under the following conditions:

9 (1) the applicant has no record of moving  
10 violations;

11 (2) the necessity of the license is shown to  
12 the satisfaction of the director; and

13 (3) the applicant satisfies the provisions of  
14 Section ~~[64-5-206 NMSA 1953]~~ 66-5-206 NMSA 1978 relating to  
15 proof of financial responsibility.

16 D. The division may, upon receiving satisfactory  
17 evidence of any violation of the restrictions of the license,  
18 suspend the ~~[same]~~ license, but the licensee ~~[shall be]~~ is  
19 entitled to a hearing as upon a suspension under Sections  
20 ~~[64-5-1 through 64-5-47 NMSA 1953]~~ 66-5-1 through 66-5-47 NMSA  
21 1978.

22 E. It is a misdemeanor for any person to operate a  
23 motor vehicle in any manner in violation of the restrictions  
24 imposed in a restricted license issued to ~~[him]~~ the person."